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DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-804]

Ball Bearings and Parts Thereof from Japan: Notice of Court Decision Not in Harmony With the Final Results of Antidumping Duty Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative Review; 2004-2005

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On February 25, 2015, the United States Court of International Trade (CIT or Court) issued final judgment in *JTEKT Corp. v. United States*, Consol. Court No. 06-00250 (*JTEKT Corp.*), affirming the Department of Commerce's (the Department) final results of redetermination pursuant to remand.¹

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results of the administrative review of the antidumping duty order on ball bearings and parts thereof from Japan, covering the period May 1, 2004 through April 30, 2005, and is amending the final results with respect to Nachi-Fujikoshi Corporation and NTN Corporation.

EFFECTIVE DATE: March 7, 2015

¹ See Final Second Remand Redetermination, Consol. Court No. 06-250, available at: <http://enforcement.trade.gov/remands/14-13.pdf> (*Final Second Remand*).

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0410.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 2006, the Department published *AFBs 16*.² Nachi-Fujikoshi Corporation (Nachi), NTN Corporation (NTN), and other parties appealed *AFBs 16* to the CIT. On December 18, 2009, the CIT remanded *AFBs 16* for the Department to, *inter alia*, 1) redetermine NTN's freight expenses using a method that is consistent with the Department's treatment of the freight expense of other respondents in the administrative review and 2) to redetermine the application of facts otherwise available for information that Nachi submitted on physical bearing characteristics.³ On May 17, 2010, the Department filed its results of redetermination pursuant to remand in accordance with the CIT's order.⁴

On July 29, 2011, the CIT affirmed, in part, the Department's first remand, which resulted in a weighted-average dumping margin of 13.91 percent for Nachi and a weighted-average dumping margin of 8.02 percent for NTN.⁵ The Court remanded issues regarding Nachi, NTN, and other respondent companies, relating to the Department's use of zeroing and model match methodology.⁶ On June 4, 2012, the Court stayed the proceedings pending the appeal of *Union Steel v. United States*, which concerned zeroing.⁷ After the Federal Circuit issued its

² See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews*, 71 FR 40064 (July 14, 2006) (*AFBs 16*).

³ See *JTEKT Corporation v. United States*, 675 F. Supp. 2d (CIT 2009).

⁴ See Final Results of Redetermination, *JTEKT Corporation v. United States*, Consol. Court No. 06-00250 (CIT December 18, 2009), dated May 17, 2010 (*Final First Remand*), available at: <http://enforcement.trade.gov/remands/09-147.pdf>.

⁵ See *JTEKT Corp. v. United States*, 780 F. Supp. 2d 1357 (CIT 2011).

⁶ *Id.*

⁷ *Union Steel v. United States*, 713 F.3d 1101 (Fed. Cir. 2013).

opinion in *Union Steel*, the Court lifted the stay and “relieve[d] Commerce of the directive concerning zeroing” in *JTEKT III* but “maintain[ed] the directive . . . as to the claim brought by NTN” pertaining to the model match methodology.⁸ In *Final Second Remand*, the Department further explained its analysis of this issue but did not further recalculate the weighted-average dumping margins for any respondents in the litigation.⁹ The Court affirmed the Department’s second remand in its entirety on February 25, 2015, and entered judgment.¹⁰

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s February 25, 2015, judgment affirming the *Final Second Remand* constitutes a final decision of that court that is not in harmony with *AFBs 16*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court decision, the Department is amending *AFBs 16* with respect to Nachi’s and NTN’s weighted-average dumping margins as redetermined in the *Final First Remand*. The revised weighted-average dumping margin for the period May 1, 2004, to April 30, 2005, for Nachi is 13.91 percent. The revised weighted-average dumping margin for the period May 1, 2004, to April 30, 2005, for NTN is 8.02 percent.

Accordingly, the Department will continue the suspension of liquidation of the subject

⁸ See *JTEKT Corp. v. United States*, Consol. Court No. 06-00250, slip op. 14-13 at 7 (CIT February 10, 2014) (*JTEKT III*).

⁹ See Redetermination Pursuant to Remand, *JTEKT Corporation v. United States*, Consol. Court No. 06-00250 (CIT January 29, 2010 and February 10, 2014), dated May 17, 2010 (*Final Second Remand*).

¹⁰ See *JTEKT Corp. v. United States*, Consol. Court No. 06-00250, slip op. 15-18 (CIT February 25, 2015).

merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the Court's ruling is not appealed, or if appealed and upheld by the Federal Circuit, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on appropriate entries of the subject merchandise from NTN or Nachi using the revised assessment rates calculated by the Department in the *Final First Remand*.

Cash Deposit Requirements

Because we revoked the antidumping duty order on ball bearings and parts thereof from Japan effective September 15, 2011, no cash deposits for estimated antidumping duties on future entries of subject merchandise will be required.¹¹

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: March 11, 2015

Ronald K. Lorentzen,
Acting Assistant Secretary
for Enforcement and Compliance.

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¹¹ See *Ball Bearings and Parts Thereof From Japan and the United Kingdom: Final Results of Sunset Reviews and Revocation of Antidumping Duty Orders*, 79 FR 16771 (March 26, 2014).